

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**05 10746 RWZ**

**LAURIE GILBERT,**  
Plaintiff,

v.

**JOHN HAGGARTY,**  
Defendant.

MAGISTRATE JUDGE *Alexander*

**FILED**  
Clerk's Office  
USDC, Mass.  
Date *4-8-05*  
By *INFUSE*  
Deputy Clerk

RECEIPT # *63528*  
AMOUNT \$*250*  
SUMMONS ISSUED *N/A*  
LOCAL RULE 4.1 ☐  
WAIVER FORM ☐  
MCF ISSUED ☐  
BY DPTY. CLK. *from*  
DATE *4-14-05*

### NOTICE OF REMOVAL

Defendants, John Haggarty (hereinafter, "Haggarty"), Timothy B. Dube (hereinafter, "Dube"), and John Doe (hereinafter, "Doe"), the Defendants (hereinafter, "the Defendants") in the above-entitled cause, hereby file this Notice Of Removal of the above-described action to the United States District Court for the District of Massachusetts from Essex County Superior Court, Case No. 05-432C, where the action is now pending as provided by Title 28, U.S. Code, Chapter 98 and state:

1. The above-entitled action was commenced in the Superior Court of Essex County, State of Massachusetts, and is now pending in that court. Process was served on the Defendants on March 17, 2005. A copy of the Plaintiff's complaint and summons setting forth the claim for relief upon which the action is based was first received by the Defendants on March 17, 2005.

2. This action was commenced against the Defendants in Essex County Superior Court by the Plaintiff and alleges that the Defendants violated the Plaintiff's constitutional rights secured by the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution to be free from unreasonable search and seizure of her person and to due process of law. The United States District Court for the District of Massachusetts has original jurisdiction by reason of 28 U.S.C. § 1331 in that the action arises under the Laws of the United States that, as appears from the complaint, the Plaintiff bases her claim for relief against the Defendants by virtue of and under the federal statutes and acts of Congress.

3. Defendants further allege that the action was commenced by the filing of the complaint on March 16, 2005, and the service of process on Defendants on March 17, 2005, and that the time has not elapsed within which they are allowed to file this notice of removal of action to this court.

4. A copy of all process, pleadings, and orders served upon the Defendants is filed with this notice.

5. The Defendants will give written notice of the filing of this notice as required by 28 U.S.C. § 1446(d).

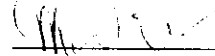
6. A copy of this notice will be filed with the clerk of the Essex County Superior Court as required by 28 U.S.C. § 1446(d).

WHEREFORE, the Defendants request that this action proceed in this Court as an action properly removed to it.

Dated: April 7, 2005

F:\lpa\gilbert\pldgs\req.removal.doc

Respectfully submitted,  
For the Defendants,  
**John Haggarty, Timothy B. Dube,**  
**John Doe,**  
By their attorney,



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Matthew E. Dwyer (BBO# 139840)  
Dwyer, Duddy and Facklam  
Attorneys At Law, P.C.  
One Center Plaza, Suite 360  
Boston, MA 02108  
(617) 723-9777

(TO PLAINTIFF'S ATTORNEY: Please Circle Type of Action Involved: - TORT - MOTOR VEHICLE TORT -  
CONTRACT - EQUITABLE RELIEF - OTHER.)

## COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SUPERIOR COURT  
CIVIL ACTION

No. 05-432C

Laurie Gilbert

, Plaintiff(s)

v.

John Haggarty

, Defendant(s)

### SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve upon Richard N. Foley  
plaintiff's attorney, whose address is 414 State St., Portsmouth, NH 03801, an answer to the  
complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the  
day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the  
complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at

Essex Superior Court  
13 Broad St.  
Lawrence, MA 01840 either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13 (a), your answer must state as a counterclaim any claim which you may  
have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's  
claim or you will thereafter be barred from making such claim in any other action.

**Barbara J. Rouse**

WITNESS, [Signature] Esquire, at Salem, the  
day of 3/17/05, in the year of our Lord two thousand



TRUE ATTEST COPY  
DEPUTY SHERIFF

Thomas H. Russell Jr.  
Clerk

#### NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

NOTICE TO DEFENDANT - You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS.

SUPERIOR COURT  
LAWRENCE SESSION

LAURIE GILBERT  
Plaintiff

v.

JOHN HAGGARTY,  
TIMOTHY B. DUBE,  
JOHN DOE,  
Defendants

DOCKET #:

COMPLAINT AND JURY CLAIM

INTRODUCTORY STATEMENT

1. This is a civil action by the Plaintiff, brought pursuant to 42 U.S.C. § 1983 and § 1988 and the Fourth, Fifth and Fourteenth Amendments of the United States Constitution and under the common law of the Commonwealth of Massachusetts seeking to recover compensatory and punitive damages for injuries and to redress deprivation under the color of law, ordinance, regulations, customs, or usage of a right, privilege, and immunity secured to the Plaintiff by the United States Constitution, the laws of the United States and the Constitution and laws of the Commonwealth of Massachusetts.

PARTIES

2. The Plaintiff, Laurie Gilbert, is and all times relevant to this Complaint, a citizen of the United States and a resident of the town of Belmont, County of Belknap, State of New Hampshire, residing at 10 Range Road, Belmont, NH.
3. The Defendant, John Haggarty, (hereinafter referred to as 'Haggarty') was at all times mentioned herein, a duly appointed and active officer for the City of Lawrence, Commonwealth of Massachusetts, acting under the color of

law, to wit, under color of statutes, ordinances, regulations, policies, customs and usages.

4. The Defendant, Timothy Dube, (hereinafter referred to as 'Dube') was at all times mentioned herein, a duly appointed and active officer for the City of Lawrence, Commonwealth of Massachusetts, acting under the color of law, to wit, under color of statutes, ordinances, regulations, policies, customs and usages.
5. The Defendant, John Doe, and others not presently known to Plaintiff were, at all times material to this Complaint, duly appointed and active police officers for the City of Lawrence, Massachusetts, acting under the color of law, to wit, under color of statutes, ordinances, regulations, policies, customs and uses.
6. Plaintiff sues all Defendants in their individual capacities.

#### FACTUAL ALLEGATIONS

7. On or about March 18, 2002, Plaintiff, Laurie Gilbert was parked in front of 96 Park Street, Lawrence, Massachusetts.
8. Mrs. Gilbert was with her son, Jason Macleod.
9. Mrs. Gilbert was taking her son to Holy Family Hospital in Methuen, Massachusetts due to her son having a badly injured ankle.
10. Mrs. Gilbert was unfamiliar with the area and pulled over on the side of the road to try to ascertain directions to Holy Family Hospital.
11. While parked on the side of the road she called her husband, Greg, to let him know that I was lost. After speaking to her husband two girls walked up the road, came over to the car and knocked on the passenger side window.
12. She put the window down a little bit and asked them about directions to Holy Family Hospital.

13. The girls could not speak English and Mrs. Gilbert wasn't sure what they were saying except for a statement of \$25.00. So she put the window up and drove away.
14. Mrs. Gilbert went up the road, turned around and drove back to the lights. She took a right and headed back towards Friendly's restaurant which she knew was a landmark.
15. Mrs. Gilbert only had gone a short distance when she noticed blue lights behind her.
16. She couldn't pull right over because there were a lot of cars parked on the side of the road.
17. Mrs. Gilbert pulled over as soon as possible and the police car pulled over behind her.
18. She did not understand why she was being pulled over.
19. Two officers in plain clothes approached her car. She put her window down and asked them what the problem was.
20. The larger officer asked for her license and registration and as she was looking in her pocketbook for her license, he ordered both Jason and Mrs. Gilbert out of the car.
21. The larger officer brought her to the sidewalk and started asking her who the two girls were that came up to her car while she was parked across from the store.
22. Mrs. Gilbert told him that she didn't know who they were and explained to him that she was looking for Holy Family Hospital but had gotten lost somehow.
23. The officer asked her if she would go back to the street she was on and try to buy drugs from the two girls.
24. When she refused to do this, he said that if she would help them, they would help her and she wasn't dealing with "some small time or small town New Hampshire cops that she was dealing with the big boys now."

25. Mrs. Gilbert refused to do what they wanted her to do and started questioning if they were even police officers.
26. The small officer was done searching Mrs. Gilbert's car and had retrieved a can of pepper spray that was in her pocketbook. She told him that she had bought it at Ames Department Store in Laconia, New Hampshire.
27. At this time the larger officer asked Mrs. Gilbert again about going back to the girls and she still refused. The officer then said, "You wouldn't want anything to happen to your son, would you?"
28. The small officer told Jason to turn around and not look at Mrs. Gilbert or the cops.
29. The larger officer also turned Mrs. Gilbert away from the car while the small officer got back into the car.
30. The small officer came out of the car with a Winston cigarette pack which Mrs. Gilbert had never seen or even knew anyone who smoked that brand and told the larger officer to arrest them.
31. As Mrs. Gilbert was being handcuffed she told the officer that she was being treated for a back injury from a car accident but he did not appear to care as he treated her very roughly.
32. The officers claimed they found two grams of cocaine in Mrs. Gilbert's car, however, neither Jason nor herself saw any drugs, just the Winston box.
33. Jason and Mrs. Gilbert were brought to the police station.
34. Once inside the police station there were several different officers inside laughing and joking and taunting them.
35. Mrs. Gilbert asked one of the officers if he could undo her handcuffs because her back was killing her. One officer took them off and the room went black.

36. While at the police station the officers were very rude and unprofessional. Mrs. Gilbert asked them how they could sleep at night as their behavior was inexcusable.
37. The large officer became extremely angry, grabbed her by her shoulders and twisted her around and dragged her around the corner.
38. While he was doing this he was squeezing the back of her neck while he opened the cell door.
39. He threw Mrs. Gilbert in the cell with such force that she fell to the floor, slid and hit her head on the wall.
40. Mrs. Gilbert told him he was hurting her and he said he didn't care.
41. He then started kicking Mrs. Gilbert in her legs and she remembered sliding across the floor trying to get away from him.
42. The officer continued to kick her saying, "Don't worry I won't hit you in your pretty face where it will show" all the while muttering obscenities and kicking her in her shins.
43. Mrs. Gilbert was shouting for help and no one came.
44. After a few minutes the officer shut the cell door and left.
45. Mrs. Gilbert's legs were red and swollen and her back pain was so bad she could hardly sit down.
46. Mrs. Gilbert asked for a doctor and no one responded.
- 47.. An older officer came in and she asked him for a doctor and he said he couldn't do that.
48. Eventually Mrs. Gilbert was bailed by her sister and got home at approximately 2:00 AM.
49. She couldn't sleep all night due to pain and also fear as she had to be back in Lawrence the next day for an arraignment.

50. By 6:00 AM Mrs. Gilbert became physically sick thinking about having to go to Lawrence.
51. The closer she got to the city the sicker she became and her back and legs were hurting so badly that she had to fight back tears.
52. After being arraigned she went to the hospital where the doctor advised her that he could tell that the injuries on her legs were kick marks.
53. Due to the great physical, emotional and psychological trauma of the evening with the Lawrence police, Mrs. Gilbert endures physical pain and has difficulty sleeping. She has nightmares and flashbacks and suicidal thoughts.

COUNT 1

42 U.S.C. § 1983 against Haggarty and Dube

54. Plaintiff alleges and re-alleges Paragraphs 1 through 53 of this count, with the same force and effect as if fully set forth herein.
55. On the evening of March 18, 2002 at approximately 10:40 PM Defendants Haggarty and Dube dressed in plain clothes and traveling in an unmarked car, stopped the Plaintiff. The Plaintiff had violated no law, and Defendants had seen no evidence of probable cause that the Plaintiff had committed an offense nor did Defendants have any justification or authority whatever for stopping Plaintiff.
56. The Plaintiff stepped from her automobile in full cooperation with Defendants Haggarty and Dube. Said Defendants abused her verbally and searched her automobile. At no time before or during this interrogation and search did Defendants see or find any evidence of probable cause that Plaintiff had committed any offense against the laws of the Commonwealth of Massachusetts or the City of Lawrence.
57. Although Defendants Haggarty and Dube found no evidence of any violation of law by Plaintiff, they continued to

verbally abuse and threaten the Plaintiff and her son, Jason Macleod.

58. When Plaintiff would not succumb to the officers' demands and threats, they again purportedly searched her vehicle and this time claimed to have found drugs.
59. The officers then charged with possession of marijuana and possession of crack cocaine.
60. Although Defendants Haggarty and Dube had found no evidence of any violation of the law by Plaintiff, the Defendants placed the Plaintiff in custody, and transported her to the Lawrence Police Department.
61. Without probable cause or any justification whatsoever, Defendants Haggarty and Dube agreed to and did maliciously charge Plaintiff with the following offenses: possession of marijuana and possession of crack cocaine under the laws of the Commonwealth of Massachusetts.
62. Because of Defendants Haggarty and Dube's malicious charges against Plaintiff, Plaintiff was further detained without cause by the police at the Lawrence Police Station until she was bailed out by her sister.
63. As a direct and proximate result of the unlawful detention, search, arrest and beating of Plaintiff and the malicious charges placed against her, the Plaintiff, Laurie Gilbert, suffered the following injuries and damages:
  - a) Violation of her constitutional rights under the Fourth, Fifth and Fourteenth Amendments to the United States Constitution to be free from unreasonable search and seizure of her person and to due process of law;
  - b) Loss of her physical liberties;
  - c) Physical pain and suffering and great emotional trauma and suffering, requiring expenditure of money for treatment;
  - d) Incurrence of legal costs.

64. The actions of the Defendant officers' Haggarty and Dube violated the following clearly established and well settled constitutional rights of Laurie Gilbert:

- a) Freedom from the unreasonable seizure of her person;
- b) Freedom from the use of excessive, unreasonable and unjustified force against her person;
- c) Due process of the law.

WHEREFORE, the Plaintiff, Laurie Gilbert, demands judgment against the Defendants Haggarty and Dube jointly and severally for compensatory damages in an amount determined by the jury to be fair and just, for punitive damages, costs, and attorney fees pursuant to 42 U.S.C. § 1983 and § 1988 for this action and for such other relief as this Court deems just and proper.

#### COUNT II

##### Assault and battery against Defendant Haggarty

- 65. Plaintiff alleges and re-alleges Paragraphs 1 through 53 of this complaint, with the same force and effect as if fully set forth herein.
- 66. The Plaintiff was detained at the Lawrence Police Department wherein the larger officer believed to be Defendant Haggarty repeatedly assaulted the Plaintiff.
- 67. At the time of the assault the Plaintiff was not violating any laws, was not attempting to interfere with the Defendant's execution of his duties, and was not engaged in any assault behavior towards the Defendant.
- 68. The said assault by the Defendant was not justified by any actions of the Plaintiff and constituted an unreasonable and excessive use of force.
- 69. The actions alleged above deprived the Plaintiff of the following rights under the United States Constitution:
  - a) Freedom from excessive and unreasonable force
  - b) Freedom from deprivation of liberty without due process of law

c) Freedom from summary punishment

70. Defendant Haggarty subjected Plaintiff to such deprivations by either malice or a reckless disregard of Plaintiff's rights.
71. The direct and proximate results of the Defendant's acts subjected the Plaintiff to suffer severe and permanent injuries including anxiety, nightmares and post traumatic stress disorder, was forced to endure and still endures great pain and mental suffering and to incur medical and legal expenses, and was deprived of her physical liberty.

WHEREFORE, the Plaintiff, Laurie Gilbert demands judgment against Defendants Haggarty and Dube, jointly and severally for compensatory damages in an amount determined by a jury to be fair and just, for punitive damages, costs and attorney's fees pursuant to 42 U.S.C. § 1983 and § 1988 for this action, and for such other relief as this Court deems just and proper.

COUNT III

False arrest and illegal imprisonment against Haggarty, Dube and Doe

72. Plaintiff alleges and re-alleges Paragraphs 1 through 53 of this complaint, with the same force and effect as if fully set forth herein.
73. At all times material and relevant herein, Defendants Haggarty, Dube and Doe were acting as police officers of the Lawrence Police Department.
74. Said false arrest and illegal imprisonment were in violation of the laws of the United States of America and the Commonwealth of Massachusetts.
75. As a direct and proximate result of the Defendants' acts the Plaintiff has suffered injuries as aforesaid and greatly injuring Plaintiff's reputation bringing her into public scandal, disrepute and disgrace.

WHEREFORE, the Plaintiff, Laurie Gilbert, demands judgment against Defendants Haggarty, Dube and Doe for compensatory damages in an amount determined by a jury to be

fair and just, for punitive damages, costs and attorney's fees pursuant to 42 U.S.C. § 1983 and 1988 for this action and for such other relief as this Court deems just and proper.

COUNT IV

Malicious Prosecution following false arrest

76. On or about March 18, 2002, Laurie Gilbert was lawfully present in Lawrence, Massachusetts and was bringing her son, Jason Macleod to the hospital. Although Plaintiff went about her business and committed no crime, Defendants Haggarty and Dube with deliberation and malice, and without probable cause detained and arrested the Plaintiff on the charges of possession of marijuana and possession of crack cocaine.
77. That Defendants Haggarty and Dube falsely, maliciously and without probable cause or provocation charged Plaintiff with the crimes of possession of marijuana and possession of crack cocaine.
78. Plaintiff was held for several hours as a result of said charges.
79. On or about April 26, 2002, the charges were dismissed and the matter resolved in Plaintiff's favor.
80. As a proximate result of the criminal charges initiated by Defendants Haggarty and Dube, Plaintiff, Laurie Gilbert has been damaged aforesaid including costs and attorney's fees for \$7,500.00 incurred in defending the false charges.
81. The acts of Defendants Haggarty and Dube were willful, wanton, malicious and oppressive, and were motivated solely by a desire to harm Plaintiff for refusing to purchase drugs on behalf of the undercover officers or by hatred or ill will toward Plaintiff.

WHEREFORE, the Plaintiff, Laurie Gilbert demands judgment against Defendants Haggarty and Dube, jointly and severally for compensatory damages in an amount determined by a jury to be fair and just, for punitive damages, costs and attorney's fees pursuant to 42 U.S.C. § 1983 and 1988 and for such other relief as this Court deems just and proper.

COUNT V

Conspiracy to Maliciously Prosecute

82. Plaintiff alleges and re-alleges Paragraphs 1 through 53 of this complaint, with the same force and effect as if fully set forth herein.
83. Between March 18, 2002 and April 26, 2002 Defendants Haggarty and Dube conspired, agreed and acted in concert to falsely and maliciously initiate a criminal prosecution of Plaintiff for the crime of possession of crack cocaine and possession of marijuana.
84. Among the acts pursuant to such conspiracy and agreement, Defendants fabricated evidence for procuring said prosecution.
85. Thereafter on or about April 26, 2002, the case was dismissed thereby terminating the prosecution in favor of the Plaintiff.
86. As a proximate result of the criminal charge initiated by Defendants, the Plaintiff, Laurie Gilbert has suffered damages as aforesaid including costs and attorney's fees of \$7,500.00 in the defense of the charges.

WHEREFORE, the Plaintiff, Laurie Gilbert demands judgment against Defendants Haggarty and Dube, jointly and severally for compensatory damages in an amount determined by a jury to be fair and just, for punitive damages, costs and attorney's fees pursuant to 42 U.S.C. § 1983 and 1988 for this action and for such other relief as this Court deems just and proper.

COUNT VI

87. Plaintiff alleges and re-alleges Paragraphs 1 through 53 of this complaint, with the same force and effect as if fully set forth herein.
88. Said force used against Plaintiff was unreasonable and constituted assault and battery under the laws of the Commonwealth of Massachusetts and in violation of M.G.L.c. 12 § 11H and 11I.

89. As a direct and proximate result of the Defendants' acts the Plaintiff has suffered damages as aforesaid.

WHEREFORE, the Plaintiff, Laurie Gilbert, demands judgment against all Defendants for compensatory damages in an amount determined by a jury to be fair and just, for punitive damages, costs and attorney's fees for this action and for such other relief as this Court deems just and proper.

COUNT VII

90. Plaintiff alleges and re-alleges Paragraphs 1 through 53 of this count, with the same force and effect as if fully set forth herein.
91. Said false arrest and illegal imprisonment violated Plaintiff's rights under the laws of the Commonwealth of Massachusetts in violation of M.G.L.c. 12 § 11H and 11I.
92. As a result of said arrest and false imprisonment Plaintiff suffered damages as aforesaid.

WHEREFORE, the Plaintiff, Laurie Gilbert, demands judgment against all Defendants for compensatory damages in an amount determined by a jury to be fair and just, for punitive damages, costs and attorney's fees for this action and for such other relief as this Court deems just and proper.

PLAINTIFF DEMANDS TRIAL BY JURY.

Dated: March 16, 2005

Respectfully Submitted,  
LAURIE GILBERT

By Her attorney  
Richard N. Foley, Esq.  
414 State St.  
Portsmouth, NH 03801  
(603) 433-1303  
BBO #: 553321

**COMMONWEALTH OF MASSACHUSETTS**  
**ESSEX, ss** **SUPERIOR COURT CIVIL ACTION**  
**NO. 05-432C**

|                        |   |  |
|------------------------|---|--|
| <u>LAURIE GILBERT,</u> | ) |  |
| <b>Plaintiff,</b>      | ) |  |
|                        | ) |  |
| <b>v.</b>              | ) |  |
|                        | ) |  |
| <u>JOHN HAGGARTY,</u>  | ) |  |
| <b>Defendant.</b>      | ) |  |

**NOTICE TO STATE COURT OF FILING OF NOTICE OF REMOVAL**

To: Clerk of Court  
Essex County Superior Court  
Superior Courthouse  
34 Federal Street  
Salem, MA 01970

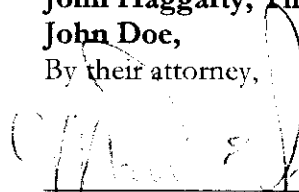
Richard N. Foley, Esquire  
414 State Street  
Portsmouth, NH 03801

Pursuant to 28 U.S.C. § 1446(d), the Defendants file herewith a true copy of the Notice Of Removal previously filed in the United States District Court for the District of Massachusetts, and a true copy of the Notice Of Filing Of Notice Of Removal.

Dated: April 7, 2005

f:\lpa\gilbert\pldgs\not.sc.not.rem.doc

Respectfully submitted,  
For the Defendants,  
**John Haggarty, Timothy B. Dube,**  
**John Doe,**  
By their attorney,



Matthew E. Dwyer (BBO# 139840)  
Dwyer, Duddy and Facklam  
Attorneys At Law, P.C.  
One Center Plaza, Suite 360  
Boston, MA 02108  
(617) 723-9777

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Gilbert v. John Haggarty, et al.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- 05 10746 RWZ
- I. 160, 410, 470, 480, 490, 500, 510, 520, 530, 540, 550, 560, 570, 580, 590, 600, 610, 620, 630, 640, 650, 660, 670, 680, 690, 700, 710, 720, 730, 740, 750, 760, 770, 780, 790, 800, 810, 820, 830, 840, 850, 860, 870, 880, 890, 900, 910, 920, 930, 940, 950, 960, 970, 980, 990. **REGARDLESS OF NATURE OF SUIT.**
- II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. **\*Also complete AO 120 or AO 121 for patent, trademark or copyright cases**
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 480, 490, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

MacLeod v. Haggarty, et al.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☐

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES ☐ NO ☒

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☒ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Matthew E. Dwyer, Esquire, Brian M. Maser, EsquireADDRESS Dwyer, Duddy and Facklam, P.C., One Center Plaza, Suite 360, Boston, MA 02108TELEPHONE NO. (617) 723-9777

JS 44 (Rev. 11/04)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Laurie Gilbert

(b) County of Residence of First Listed Plaintiff Belknap, NH  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Richard N. Foley, Esquire, 414 State Street, Portsmouth, NH 03801

**DEFENDANTS**

John Haggarty, Timothy B. Dube, John Doe

County of Residence of First Listed Defendant Essex, MA  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Matthew E. Dwyer, Esquire, Brian M. Maser, Esquire, Dwyer, Duddy and Facklam, One Center Plaza, # 360, Boston, 02108

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                                       |   |                            |                            |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
|   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1            | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

| CONTRACT   | TORTS   | FORFEITURE/PENALTY   | BANKRUPTCY   | OTHER STATUTES   |
|--|---|--|--|--|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input checked="" type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS -- Third Party 26 USC 7609   |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property   | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input checked="" type="checkbox"/> 440 Other Civil Rights   | <b>PRISONER PETITIONS</b><br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><b>Habeas Corpus:</b><br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition   |  | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes |

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. 1331

Brief description of cause:

Civil Action by plaintiff to recover damages for injuries sustained and to redress deprivation of rights

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

**DEMAND \$**

CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/14/2005

SIGNATURE OF ATTORNEY OF RECORD

*B. M. Maser***FOR OFFICE USE ONLY**

RECEIPT \$ AMOUNT APPLYING FFP JUDGE MAG. JUDGE